



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket Number USCG-2023-0073]

RIN 1625-AA00

Safety Zone; South Fork Wind Farm Project Area, Outer Continental Shelf, Lease

OCS-A 0517, Offshore Rhode Island, Atlantic Ocean

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish 13 temporary 500-meter safety zones around the construction of 12 wind turbine generators (WTGs) and one offshore substation (OSS) located in the South Fork Wind Farm (SFWF) project area within federal waters on the Outer Continental Shelf (OCS), specifically in the Bureau of Ocean Energy Management (BOEM) Renewable Energy Lease Area OCS-A 0517, approximately 16 nautical miles (NM) southeast of Block Island, Rhode Island, and 30 NM east of Montauk Point, New York. This action is necessary to provide for the safety of life, property, and the environment during the planned construction of each facility's monopile type foundation and subsequent installation of the WTGs turbines and OSS platform from May 1, 2023, to December 31, 2023. When enforced, only attending vessels and those vessels specifically authorized by the First Coast Guard District Commander, or a designated representative, are permitted to enter or remain in the safety zones. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE**

FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2023-0073 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Craig Lapiejko, Waterways Management, at Coast Guard First District, telephone 617-223-8351, e-mail craig.d.lapiejko@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BOEM	Bureau of Ocean Energy Management
CFR	Code of Federal Regulations
DD	Degrees Decimal
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
OCS	Outer Continental Shelf
OSS	Offshore Substation
NAD 83	North American Datum of 1983
NM	Nautical Mile
§	Section
SFWF	South Fork Wind Farm
U.S.C.	United States Code
WTG	Wind Turbine Generator

II. Background, Purpose, and Legal Basis

On October 20, 2022, Orsted Offshore North America, an offshore wind farm developer, notified the Coast Guard that they plan to begin construction of facilities in the SFWF project area within federal waters on the OCS, specifically in the BOEM Renewable Energy Lease Area OCS-A 0517, approximately 16 NM southeast of Block Island, Rhode Island, and 30 NM east of Montauk Point, New York in May 2023.

The extremely complex offshore construction of these OCS facilities presents many unusually hazardous conditions including hydraulic pile driving hammer operations, heavy lift operations, overhead cutting operations, potential falling debris,

increased vessel traffic, and stationary barges in close proximity to the facilities and each other.

Based on these circumstances, the First Coast Guard District Commander has determined that establishment of 13 safety zones through rulemaking is warranted to ensure the safety of life, property, and the environment within a 500-meter radius of each of the 13 facilities during their construction.

The Coast Guard is proposing this rule under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security (DHS) Delegation No. 00170.1, Revision No. 01.3. As an implementing regulation of this authority, 33 CFR part 147 permits the establishment of safety zones for non-mineral energy resource permanent or temporary structures located on the OCS for the purpose of protecting life and property on the facilities, appurtenances and attending vessels, and on the adjacent waters within the safety zone (see 33 CFR 147.10). Accordingly, a safety zone established under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property, and the environment.

III. Discussion of Proposed Rule

The District Commander is proposing to establish 13 temporary 500-meter safety zones around the construction of 12 WTGs and one OSS on the OCS from May 1, 2023, through 11:59 p.m. on December 31, 2023.

The construction of these facilities is expected to take place in two phases beginning with the installation of monopile type foundations for 12 WTGs and one OSS starting May 1, 2023. The second phase, which will involve the installation of WTG structures and the OSS platform, is anticipated to begin in August 2023. Commission and operation of the turbines is expected by the end of 2023. The 13 temporary safety zones would be enforced individually as construction progresses from one structure

location to the next throughout each of the two phases for a period lasting approximately 48 hours. The Coast Guard would make notice of each enforcement period via the Local Notice to Mariners and issue a Broadcast Notice to Mariners via marine channel 16 (VHF-FM) as soon as practicable in response to an emergency or hazardous condition. The Coast Guard is publishing this rulemaking to be effective, and enforceable, through December 31, 2023, to encompass any construction delays due to weather or other unforeseen circumstances. If the project is completed before December 31, 2023, enforcement of the safety zones would be suspended, and notice given via Local Notice to Mariners.

Additional information about the construction process of the SFWF can be found at <https://www.boem.gov/renewable-energy/state-activities/south-fork>.

The 13 temporary 500-meter safety zones around the construction of 12 WTGs and one OSS are in the SFWF project area within federal waters on the OCS, specifically in the BOEM Renewable Energy Lease Area OCS-A 0517, approximately 16NM southeast of Block Island, Rhode Island, and 30 NM east of Montauk Point, New York.

The positions of each individual safety zone proposed by this rulemaking will be referred to using a unique alpha-numeric naming convention outlined in the “Rhode Island and Massachusetts Structure Labeling Plot (West)¹”.

Aligning with authorities under 33 CFR 147.15, the proposed safety zones would include the area within 500-meters of the center point of the positions provided in the table below expressed in Decimal Degrees (DD) based on North American Datum 1983 (NAD 83).

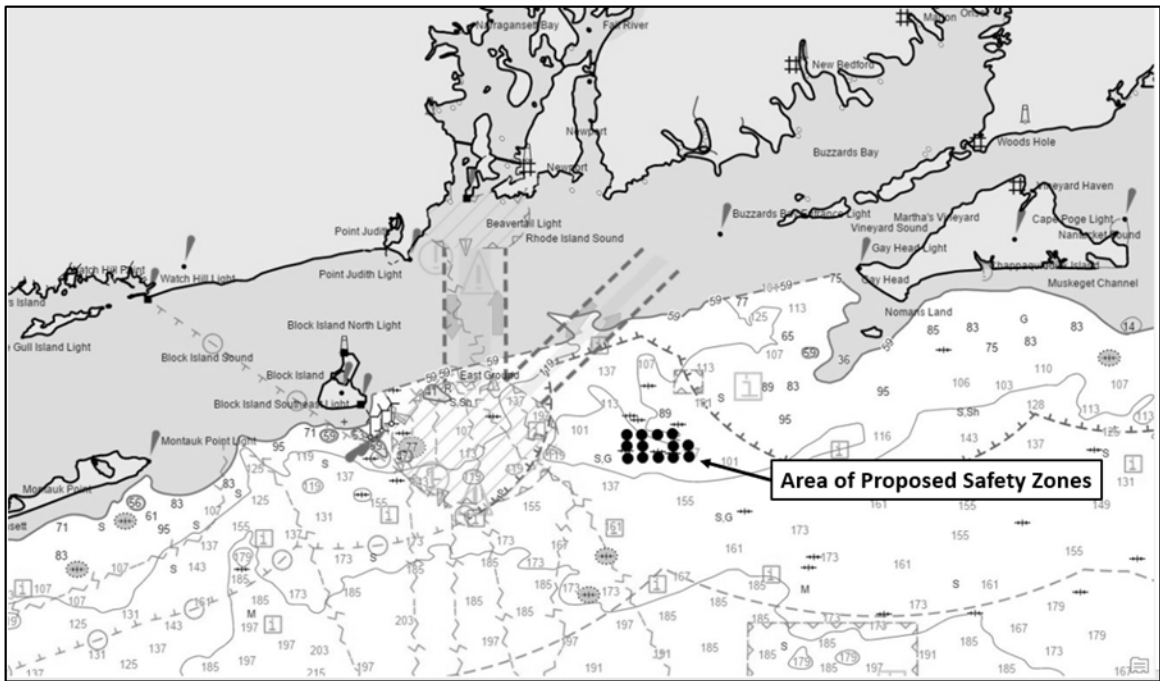
Name	Facility Type	Latitude	Longitude
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¹ The Rhode Island and Massachusetts Structure Labeling Plot (West) is an attachment to the Conditions of Construction and Operations Plan Approval Lease Number OCS-A 0517 ([boem.gov](https://www.boem.gov)) and can be found at <https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/SFWF-COP-Terms-and-Conditions.pdf>.

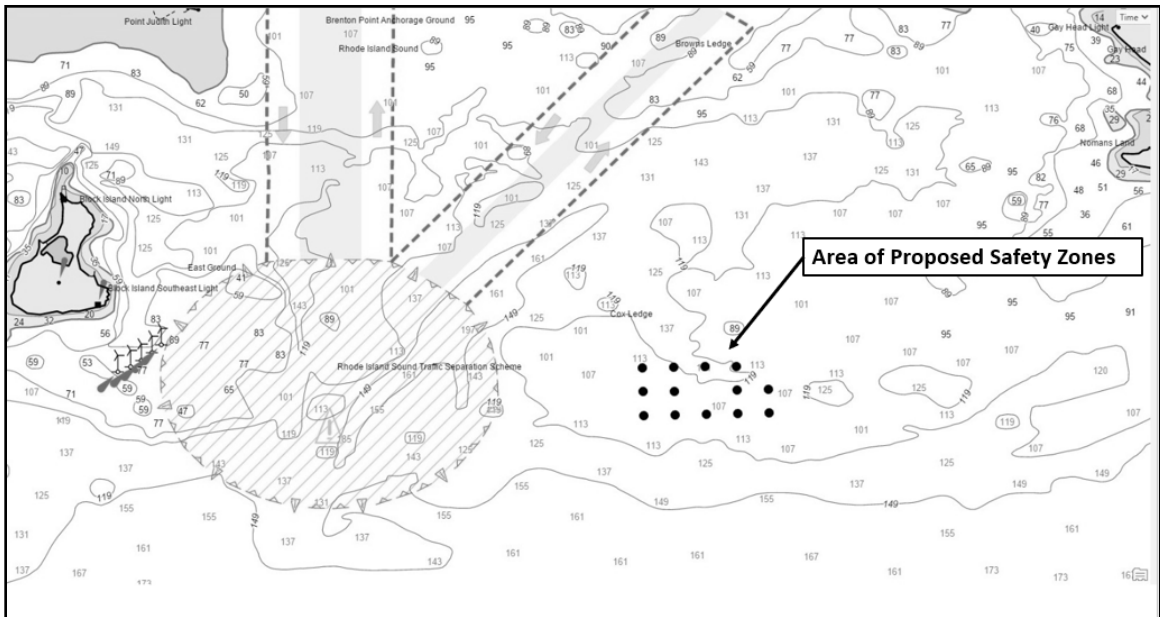
AM06	WTG	N 41.10921219	W -71.16906236
AM07	WTG	N 41.10962524	W -71.14702052
AM08	WTG	N 41.11003408	W -71.12497822
AM09	WTG	N 41.1104387	W -71.10293547
AN06	WTG	N 41.0925412	W -71.16851369
AN07	WTG	N 41.09295401	W -71.14647741
AN09	WTG	N 41.093767	W -71.1024035
AN10	WTG	N 41.09416717	W -71.08036587
AP06	OSS	N 41.07587016	W -71.16796548
AP07	WTG	N 41.07628273	W -71.14593476
AP08	WTG	N 41.07669109	W -71.12390359
AP09	WTG	N 41.07709524	W -71.10187197
AP10	WTG	N 41.07749518	W -71.0798399

The positions of the 13 proposed safety zones are shown on the chartlets below.

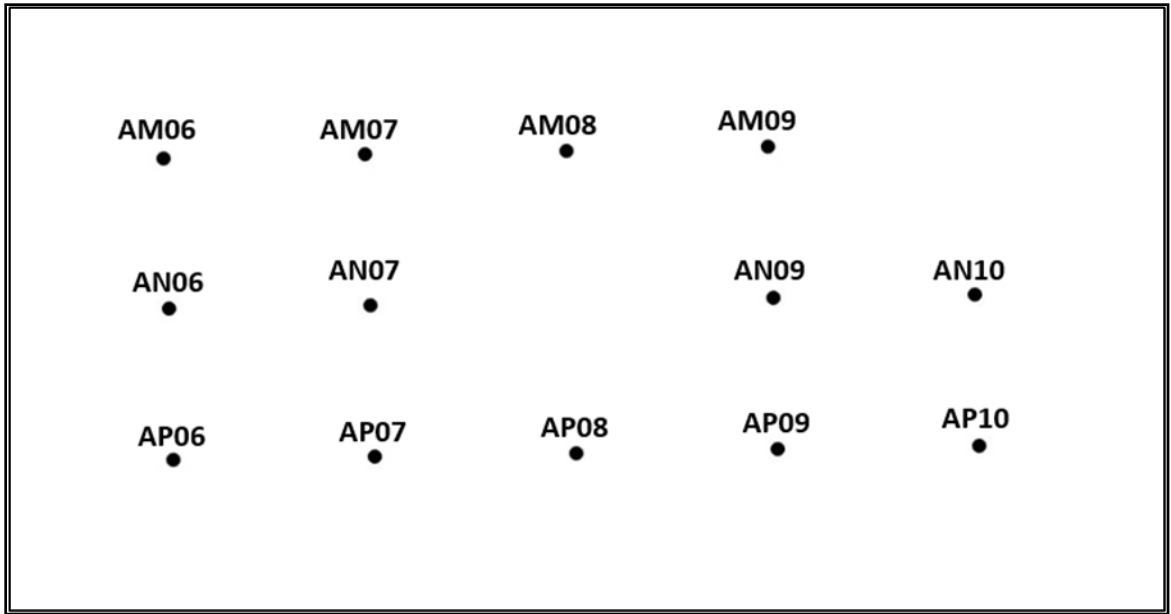
For scaling purposes, there is approximately one NM spacing between each position.



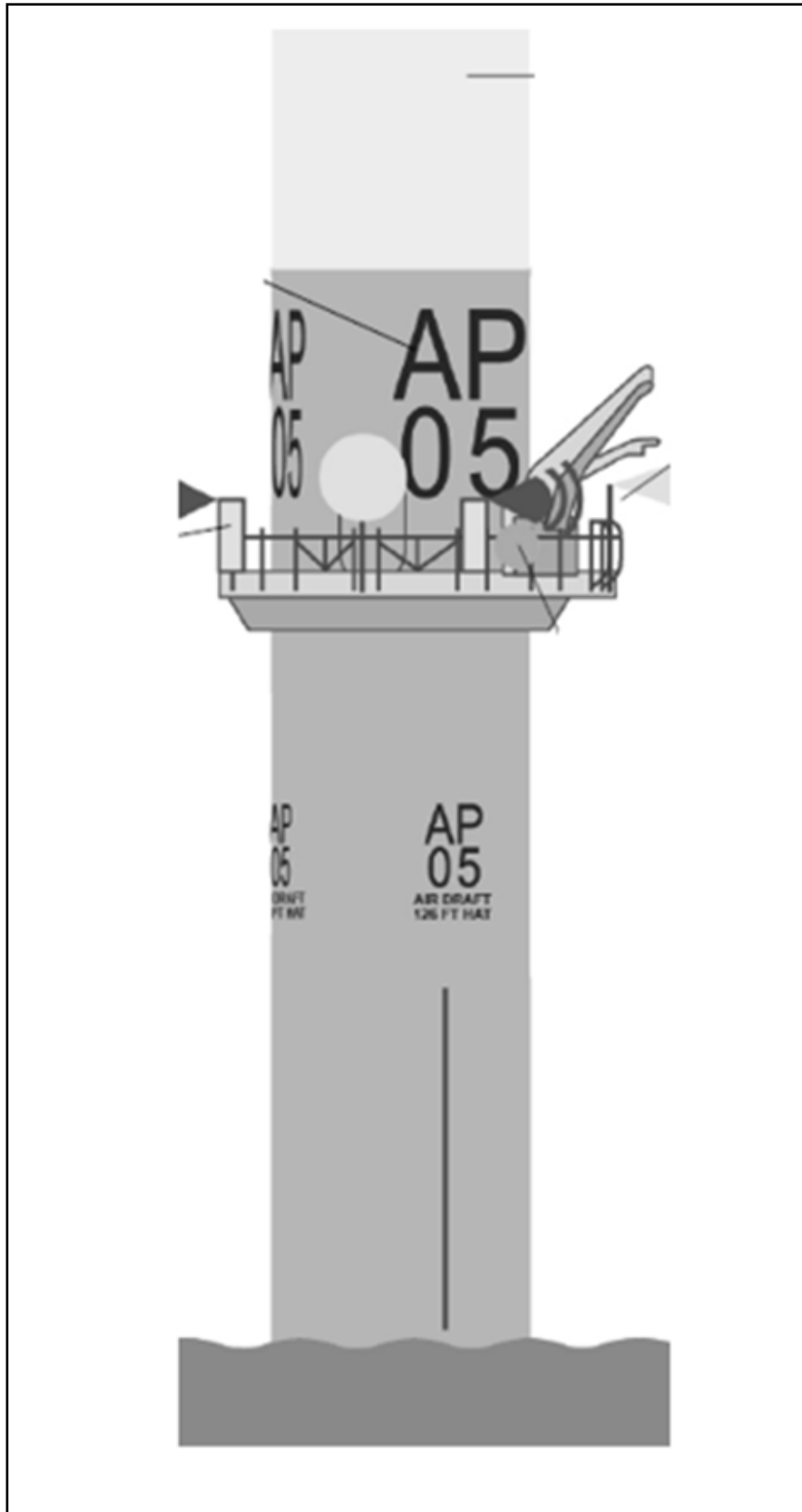
(Small scale chartlet showing the positions of the proposed safety zones.)



(Large scale chartlet showing the positions of the proposed safety zones.)



(Chartlet showing turbine positions using unique alpha-numeric naming convention.)



(Illustration showing the structure displaying the unique alpha-numeric identification naming convention.)

Navigation in the vicinity of the proposed safety zones consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows, and recreational vessels.

When enforced, no unauthorized vessel or person would be permitted to enter the safety zone without obtaining permission from the First Coast Guard District Commander or a designated representative. Requests for entry into the safety zone would be considered and reviewed on a case-by-case basis. Persons or vessels seeking to enter the safety zone must request authorization from the First Coast Guard District Commander or designated representative via VHF-FM channel 16 or by phone at 617-223- 8555 (First Coast Guard District Command Center). If permission is granted, all persons and vessels shall comply with the instructions of the First Coast Guard District Commander or designated representative.

The proposed regulatory text appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. A summary of our analyses based on these statutes and Executive Orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zones established would extend to a maximum distance of 500-meters around the OCS facility measured from its center point. Vessel traffic would be able to safely transit around the proposed safety zones, which would impact a small, designated area in the Atlantic Ocean, without significant impediment to their voyage. This safety zone would provide for the safety of life, property, and the environment during the construction of each structure, in accordance

with Coast Guard maritime safety missions.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect owners or operators of vessels intending to transit or anchor in the SFWF, some of which might be small entities. However, these safety zones would not have a significant economic impact on a substantial number of these entities because they are temporarily enforced, allow for deviation requests, and do not impact vessel transit significantly. Regarding the enforcement period, although these safety zones would be in effect from May 1, 2023, through December 31, 2023, vessels would only be prohibited from the regulated zone during periods of actual construction activity in correspondence to the period of enforcement. We expect the enforcement period at each location to last approximately 48 hours as construction progresses from one structure location to the next throughout each of the two phases. Additionally, vessel traffic could pass safely around each safety zone using an alternate route. Use of an alternate route likely will cause minimal delay for the vessel in reaching their destination depending on other traffic in the area and vessel speed. Vessels would also be able to request deviation from this rule to transit through a safety zone. Such requests would be considered on a case by-case basis and may be authorized by the First Coast Guard District Commander or a designated representative. For these reasons, the Coast Guard expects any impact of

this rulemaking establishing a temporary safety zone around these OCS facilities to be minimal and have no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would

not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0073 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided.

For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (waters).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 147.T01-0073 to read as follows:

§ 147.T01-0073 Safety Zones; South Fork Wind Farm Project Area, Outer Continental Shelf, Lease OCS-A 0517, Offshore Rhode Island, Atlantic Ocean.

(a) *Description.* The area within 500-meters of the center point of the positions provided in the table below is a safety zone:

Name	Facility Type	Latitude	Longitude
AM06	WTG	N 41.10921219	W -71.16906236
AM07	WTG	N 41.10962524	W -71.14702052

AM08	WTG	N 41.11003408	W -71.12497822
AM09	WTG	N 41.1104387	W -71.10293547
AN06	WTG	N 41.0925412	W -71.16851369
AN07	WTG	N 41.09295401	W -71.14647741
AN09	WTG	N 41.093767	W -71.1024035
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AP07	WTG	N 41.07628273	W -71.14593476
AP08	WTG	N 41.07669109	W -71.12390359
AP09	WTG	N 41.07709524	W -71.10187197
AP10	WTG	N 41.07749518	W -71.0798399

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the First Coast Guard District Commander in the enforcement of the safety zones.

(c) *Regulations.* No vessel may enter or remain in this safety zone except for the following:

- (1) An attending vessel as defined in 33 CFR 147.20;
- (2) A vessel authorized by the First Coast Guard District Commander or a designated representative.

(d) *Request for Permission.* Persons or vessels seeking to enter the safety zone must request authorization from the First Coast Guard District Commander or a designated representative. If permission is granted, all persons and vessels must comply

with lawful instructions of the First Coast Guard District Commander or designated representative via VHF-FM channel 16 or by phone at 617-223- 8555 (First Coast Guard District Command Center).

(e) *Effective and enforcement periods.* This section will be effective from May 1, 2023, through 11:59 p.m. on December 31, 2023. But it will only be enforced during active construction or other instances which may cause a hazard to navigation deemed necessary by the First Coast Guard District Commander. The First Coast Guard District Commander will make notification of the exact dates and times in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through the Local Notice to Mariners and will issue a Broadcast Notice to Mariners via marine channel 16 (VHF-FM) as soon as practicable in response to an emergency. If the project is completed before December 31, 2023, enforcement of the safety zones will be suspended, and notice given via Local Notice to Mariners. The First Coast Guard District Local Notice to Mariners can be found at:

<https://www.navcen.uscg.gov>.

Dated: February 27, 2023.

J. W. Mauger

Rear Admiral, U.S. Coast Guard

Commander, First Coast Guard District.

[FR Doc. 2023-04306 Filed: 3/3/2023 8:45 am; Publication Date: 3/6/2023]